

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Tariffville Post Office
Tariffville, Connecticut

Docket No. A2011-80

ORDER AFFIRMING DETERMINATION

(Issued January 9, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012, are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5). On September 21, 2011, Mary Glassman (Petitioner Glassman) and Theresa Salls (Petitioner Salls) each filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Tariffville, Connecticut post office (Tariffville post office).² The Final Determination to close the Tariffville post office is affirmed.

II. PROCEDURAL HISTORY

On September 23, 2011, the Commission established Docket No. A2011-80 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On September 22, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

Petitioner Salls filed a Participant Statement supporting her Petition.⁶ In addition, comments supporting petitioners were received from customers Frank Haviland, Wanda

² Petition for Review received from Mary Glassman regarding the Tariffville, Connecticut post office 06081, September 21, 2011 (Glassman Petition); Petition for Review received from Theresa Salls regarding the Tariffville, Connecticut post office 06081, September 21, 2011 (Salls Petition).

³ Order No. 869, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 23, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 6, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Suspended Tariffville, Connecticut Post Office and Continue to Provide Service by Independent Post Office (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, November 15, 2011 (Postal Service Comments).

⁶ Participant Statement received from Theresa Salls, October 28, 2011 (Salls Participant Statement).

Colman, Robert Ball, and Andrew Mitchell.⁷ Congressman Christopher Murphy also filed a letter supporting the opponents of the post office closing.⁸

Neither the Petitioners, the supporting commenters, nor the Public Representative submitted replies to the Postal Service's comments.

III. BACKGROUND

The Tariffville post office provided retail postal services and services to 166 post office box or general delivery customers until February 4, 2011. On that date, the Postal Service declared an emergency suspension since the landlord had requested that the premises be evacuated due to structural deficiencies. Final Determination at 38. There were no delivery route customers, and there were two permit mailers or postage meter customers. *Id.* at 38. The Tariffville post office was an EAS-13 level facility. Since suspension of service, customers received delivery and retail services by an independent post office emanating from the Simsbury post office, an EAS-20 level office, which has retail access hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. *Id.* at 2.

The postmaster position became vacant on February 4, 2011 when the Tariffville postmaster was reassigned to the Simsbury post office as a result of the emergency suspension. Office receipts for the last 3 years were \$164,252 in FY 2008; \$159,375 in FY 2009; and \$148,092 in FY 2010. There were two permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$66,383 annually. *Id.* at 37.

⁷ Letter received from customer Frank Haviland, October 12, 2011. (Haviland Letter); letter received from customer Wanda Colman, October 24, 2011 (Colman Letter); letter received from customer Robert Ball, October 26, 2011 (Ball Letter); letter received from customer Andrew W. Mitchell, December 9, 2011 (Mitchell Letter).

⁸ Letter received from Congressman Christopher Murphy, October 18, 2011 (Congressman Murphy Letter).

Since suspension of the Tariffville post office, delivery and retail services have been provided by the Simsbury post office located approximately 3.4 miles away.⁹ *Id.* at 2. The Simsbury post office has 281 post office boxes available. *Id.* The Postal Service will continue to use the Tariffville name and ZIP Code. *Id.* at 3, Concern No. 5.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioners and the supporting commenters oppose closure of the Tariffville, Connecticut post office. They allege (1) that the process followed by the Postal Service is legally flawed;¹⁰ (2) that closure of the Tariffville post office will adversely affect the community;¹¹ (3) that the proposed service through the Simsbury post office will not provide them with effective and regular mail service;¹² and (4) that the economic savings projected by the Postal Service does not justify closure of the Tariffville post office.¹³

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Tariffville post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Tariffville community; and (3) the economic savings expected to result from discontinuing the Tariffville post office. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Tariffville post office should be affirmed. *Id.* at 2.

⁹ MapQuest estimates the driving distance between the Tariffville and Simsbury post offices to be approximately 3.4 miles (7 minutes driving time).

¹⁰ *E.g.*, Glassman Petition at 1-2.

¹¹ *E.g.*, Mitchell Letter at 1.

¹² *E.g.*, Haviland Letter at 1.

¹³ *E.g.*, Mitchell Letter at 2.

- The Postal Service explains that its decision to close the Tariffville post office was based on several factors, including emergency suspension of the facility;
- postmaster vacancy due to reassignment after the emergency suspension;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Tariffville community when the Final Determination is implemented. *Id.* at 5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, effect on the Tariffville community, economic savings, and effect on postal employees. *Id.* at 5-11.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 21, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Tariffville post office. Final Determination at 2. A total of 760 questionnaires were distributed and 234 were returned. On April 5, 2011, the Postal Service held a community meeting at Trinity Church Parish Hall to address customer concerns and 125 customers attended. *Id.*

The Postal Service posted the proposal to close the Tariffville post office with an invitation for comments at the Simsbury post office from May 16, 2011 through July 17, 2011. *Id.* The Final Determination was posted at the Simsbury post office beginning August 9, 2011.

Petitioners and supporting commenters object to the fact that the closure process began with an emergency suspension of the Tariffville post office's operations on February 4, 2011. Glassman Petition at 1-2; Salls Petition at 1; Mitchell Letter at 2-3; Congressman Murphy Letter at 1; Colman Letter at 1, Point 1. More specifically, these parties argue that the initial emergency relied upon by the Postal Service to suspend operations, while legitimate, was a temporary emergency that was used by the Postal Service as a pretext for the ultimate decision to close the Tariffville post office. Several

of these parties note that other tenants of the building who vacated the premises on February 4, 2011 were able to resume occupancy two days later. See, e.g., Salls Petition at 1.

The record reflects that on February 9, 2011, a Postal Service Safety Specialist reviewed the leased premises and found evidence of possible structural movement or fatigue, as well as other deficiencies in the structure. Administrative Record, Item No. 6. Thereafter, on March 10, 2011, the Postal Service gave notice to the landlord of termination of the lease. *Id.* Item No. 5. In its Final Determination, the Postal Service noted that emergency suspensions automatically trigger a study of whether a post office should be discontinued. Final Determination at 3, Response to Concern No. 2. See *a/so* Postal Service Comments at 4, n. 3 (discussion of regulations in Handbook PO-101 suspension and discontinuance procedures).

Following initiation of the discontinuance study, the Postal Service followed the procedures described above. Those procedures included the dissemination of questionnaires, the convening of a public meeting, the issuance and posting of a proposal to close the Tariffville post office, and the issuance and posting of a Final Determination to close the facility.

Petitioner Glassman claims that the Postal Service's decision to close the Tariffville post office was made without any notification to residents and other interested persons, and that the decision to close the post office was made by simply posting the Final Determination. Glassman Petition at 2. Those claims are contradicted by extensive documentation in the record. Congressman Murphy asserts that the Final Determination was posted in a less than prominent location at the Simsbury post office. Congressman Murphy Letter at 1. While the exact location of the Final Determination's posting cannot be determined from the record, the posting did not prevent the timely filing of appeals and to give opponents access to the Final Determination in time to pursue their challenge to the determination.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Tariffville, Connecticut is an unincorporated community located in Hartford County, Connecticut. Final Determination at 35. The community is administered politically by Simsbury. Police protection is provided by the Simsbury Police Department. Fire protection is provided by the Simsbury Fire Department. The community is comprised of those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See generally Administrative Record, Item No. 47 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Tariffville community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Tariffville post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 35-37.

Petitioners and their supporters allege that the closure of the Tariffville post office will have an adverse impact on the community. More specifically, they cite (1) difficulties that will be encountered by elderly and disabled citizens;¹⁴ (2) the loss of

¹⁴ Glassman Petition at 1; Salls Petition at 1; Ball Letter at 1; Colman Letter at 1, Point 10.

a community, economic, and social anchor;¹⁵ (3) the loss of the very sense of community;¹⁶ and (4) a negative impact on the historical dimension of the community.¹⁷

The Postal Service asserts that the effect of the Tariffville post office closure on the community was extensively considered as evidenced by the Administrative Record. Postal Service Comments at 9. That contention finds support in various portions of the record, including the Final Determination. Final Determination at 35-37, Responses to Concern Nos. 1-10 (addressing a variety of community impact concerns); *Id.* at 4-5, Responses to Concern Nos. 7, 8, 16, (addressing customers with disabilities and senior citizens); Final Determination at 9, Response to Concern No. 20 (addressing effect on the business community); Final Determination at 8, Response to Concern No. 8 (addressing the loss of a community meeting place); Final Determination at 7, Response to Concern No. 11 (addressing the loss of community identity); Final Determination at 3-4, Response to Concern No. 5 (addressing the inapplicability of the Tariffville Historic District designation to the closure determination process). The Postal Service concludes by asserting that it is contributing to the preservation of community identity by continuing the use of the Tariffville name for post office box customers at the Simsbury post office. Postal Service Comments at 9.

The Postal Service has adequately taken the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Tariffville postmaster was reassigned to the Simsbury post office on February 4, 2011. Final Determination at 37. The Postal Service asserts that no other Postal Service employee will be affected. *Id.*

The Postal Service has satisfied its obligation to consider the effect of the closing on employees at the Tariffville post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

¹⁵ Congressman Murphy Letter at 1; Mitchell Letter at 1.

¹⁶ Ball Letter at 1.

¹⁷ Salls Petition, Attachment at 1.

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to 166 customers. Postal Service Comments at 5. The Postal Service asserts that customers of the closed Tariffville post office may obtain retail services at the Simsbury post office located 3.4 miles away. *Id.* at 6. Delivery service will be provided by carrier through the Simsbury post office. *Id.* The 166 post office box customers may obtain Post Office Box service at the Simsbury post office, which has 281 boxes available. Final Determination at 2.

For customers choosing not to travel to the Simsbury post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 4, Concern No. 8. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 5, Concern No. 14.

Petitioners and their supporters take issue with the Postal Service's claim that replacement service through the Simsbury post office will be effective and regular as required by 39 U.S.C. § 404(d)(2)(A)(iii). They base their challenge on several points.

First, opponents of the closure argue that access by Tariffville residents to postal services at the Simsbury post office is denied for days at a time because of flooding of the Farmington River which lies between Tariffville and the Simsbury post office.¹⁸ These floods allegedly increase the distance that Tariffville residents must travel in order to reach the Simsbury post office from 3.4 miles to between 10 and 18 miles.¹⁹ It is further asserted that such flooding causes other towns to seek postal services at the Tariffville post office.²⁰ The Postal Service responds by asserting that such events are infrequent and that, in any event, postal services can be provided by the carrier thereby

¹⁸ Glassman Petition at 1; Salls Participant Statement at 1-2; Mitchell Letter at 2; Colman Letter at 1, Point 7.

¹⁹ Haviland Letter at 1; see *a/so* Mitchell Letter at 2.

²⁰ Ball Letter at 1.

eliminating the need to travel to the Simsbury post office. Postal Service Comments at 7-8.

Second, Petitioners and their supporters argue that service at the Simsbury post office is overburdened and that parking is inadequate.²¹ The Postal Service acknowledges these assertions and has attempted to address them by raising these issues with the Simsbury post office. Postal Service Comments at 7. In its Final Determination, the Postal Service also states that it was reviewing the parking concerns expressed by customers. Final Determination at 19, Response to Concern No. 52. Moreover, with regard to parking, the Postal Service indicated that the landlord agreed to provide employee parking in another area of the property, and that the postmaster will inform employees to park only in the designated area. Administrative Record, Item 28 at 32.

Third, the opponents of the closure; (1) question whether service will be adequate for the elderly and disabled individuals;²² (2) assert that rural mailboxes will not adequately protect medications from extreme summer and winter temperatures and that post office box delivery is necessary;²³ and (3) object to the inconveniences that will be imposed upon customers by having to use the Simsbury post office.²⁴

The Postal Service asserts that the services it provides will meet the needs of many senior citizens and the disabled. Postal Service Comments at 6-7; see *also* Final Determination at 4-5, Responses to Concern Nos. 7, 8, 16. Special provisions are made for hardship cases or special customer needs.²⁵ With respect to the protection of

²¹ Glassman Petition at 1; Salls Participant Statement at 1-2; Mitchell Letter at 1; Colman Letter at 1, Point 13.

²² Glassman Petition at 1; Ball Letter at 1; Colman Letter at 1, Point 10.

²³ Haviland Letter at 1.

²⁴ Ball Letter at 1.

²⁵ POM § 631.42 provides for consideration of changes in the mode of delivery where existing methods impose an extreme physical hardship on an individual customer. Approval is to be based on humanitarian and not economic criteria evaluated on the basis of the customer's need and not denied because of increased operational costs or because a family member or other party may be available to receive mail for the customer. POM, Issue 9, July 2002.

medicines sent through the mail, it does not appear that this issue was specifically raised during the discontinuance study proceedings. This concern would nevertheless be addressed by the Postal Service's general commitment to make special arrangements for customers requiring such arrangements. Final Determination at 5, Response to Concern No. 16. In its Final Determination, the Postal Service addressed complaints that the closure of the Tariffville post office would result in inconvenience to postal customers. *Id.* Response to Concern No. 18.

Finally, opponents of the Tariffville post office closing assert that there are better alternatives to the Simsbury post office. *E.g.*, Glassman Petition at 1. However, the Final Determination states that the sites suggested by Petitioner Glassman were reviewed by a Postal Service real estate specialist and were found to be inadequate for certain specified reasons. Final Determination at 37, Section V. Other Factors.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$66,383. *Id.* at 37. It derives this figure by summing the following costs: postmaster salary and benefits (\$47,499) and annual lease costs (\$18,884), minus the cost of replacement service (\$0). *Id.*

Petitioners and their supporters assert that the Tariffville post office was operating at a profit.²⁶ The Postal Service responds by asserting that postal regulations in Handbook PO-101 do not consider profitability as a factor triggering or justifying the outcome of a discontinuance study and that numerous factors must be considered in reaching a determination. Postal Service Comments at 10.

²⁶ Salls Participant Statement at 2; Murphy Letter at 1; Mitchell Letter at 2; Colman Letter at 1, Point 2.

One opponent of the closure decision questions the reliability of the information used to reach a decision on the Tariffville post office closing by noting that the Final Determination states that the retail window at the Tariffville post office “averaged zero transaction(s) accounting for zero minute(s) of retail workload daily.” Mitchell Letter at 2 (citing Final Determination at 2). These statistics are, as he correctly states, inconsistent with the fact that in FY 2010, the Tariffville post office generated over \$148,000 of revenues. *Id.*

A review of the record reveals that the transaction and workload numbers reported in the Final Determination come from the Administrative Record, Item No. 10. Item No. 10 is a window transaction survey for the period from February 12, 2011 through February 25, 2011. This period followed the imposition of the emergency suspension. While these numbers may be accurate, they are irrelevant for purposes of assessing the performance and operating characteristics of the Tariffville post office prior to its suspension. In regards to customer concerns, the Postal Service noted that the Tariffville workload averaged 3.9 hours a day. It concluded that this was not an efficient design of an 8-hour workday. Final Determination at 2; Administrative Record, Item No. 38 at 27.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Tariffville post office postmaster was reassigned on February 4, 2011. Postal Service Comments at 2. The postmaster position and the corresponding salary will be eliminated. *See, e.g.,* Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10.

Based on a review of the record, the Commission concludes that the Postal Service has reviewed the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Tariffville post office is affirmed.

It is ordered:

The Postal Service's determination to close the Tariffville, Connecticut post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent because the Administrative Record is inaccurate or insufficient with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

First, if the Postal Service does not reopen Tariffville, the 166 post office box and general delivery customers of Tariffville will require permanent rural delivery or contract delivery, yet the savings calculation does not include any of these costs.

Second, the Administrative Record contains no explanation or basis for the \$175,000 cost of operating the Tariffville post office.

Third, the Tariffville post office maintained an appreciable amount of walk-in revenue each year. The Administrative Record includes numerous public comments expressing repeated and substantial concerns about the adequacy of the retail counter service and the parking provided by the post office in Simsbury. Tariffville's revenue indicates a heavy workload. The Administrative Record provides no information on how or whether Simsbury, the receiving office, can handle the added business. If Simsbury is staffed appropriately to meet the needs of its existing customers, and the additional customers from Tariffville, then the savings will be significantly less than that projected by the Postal Service.

It is not the statutory responsibility of the Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The adequacy of replacement service is also in question in two other ways.

Customers were informed that they would receive either rural delivery or contract delivery. Neither the Administrative Record nor the Final Determination clearly defines

the nature of the replacement delivery service offered by the Postal Service.

Communications with customers describe the variety of services that can be provided by the letter carrier. However, there are differences in the level of service provided by a rural carrier and a highway contract route carrier, which may affect the overall adequacy of postal services provided.

Customers have asked for a replacement collection box in Tariffville. Neither the Administrative Record nor the Final Determination provides assurance that a replacement collection box will in fact be installed.

The Commission has recently issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that its closing plans do not optimize the network. In the case of Tariffville, the failure to undertake actual retail network optimization is exhibited by the Postal Service selecting for closure a post office with strong revenue that actually increased each year from 2008 to 2010. This proposed closing should be reconsidered in this light as well.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Tariffville, Connecticut and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway